

## **REMARKS**

Reconsideration is requested in light of the foregoing amendments, the accompanying submissions and the following remarks.

Claims 1-5 and 7-12 are pending in this application.

### **Double Patenting Rejection**

Submitted herewith is a terminal disclaimer thus overcoming this rejection.

### **Indefiniteness Rejection**

Applicants gratefully acknowledge the withdrawal of the indefiniteness rejection as to claims 1 and 8.

The rejection of claim 10 under 35 U.S.C. § 112, second paragraph, as being indefinite is traversed and reconsideration is respectfully requested. Claim 10 has been amended to define the plasmid as defined in Example 2. As such, withdrawal of this rejection is respectfully requested.

### **Enablement Rejection**

Applicants gratefully acknowledge that the present claims are enabled by the present specification.

### **Anticipation and Obviousness Rejections**

The rejection of claims 1-5 and 7 a) under 35 U.S.C. §102(e) as being anticipated by Lishko *et al.* (U.S. Patent No. 5,753,263); b) under 35 U.S.C. § 102(f) or (g); and claims 8-12 under 35 U.S.C. § 103; are traversed and reconsideration is respectfully requested.

Applicants have submitted herewith a petition to correct inventorship under 37 C.F.R. § 1.48(a), a statement from the inventor to be added, a new oath and a consent of assignee. Upon receipt of an executed copy of the oath, statement and consent of assignee, applicants request that

Lingna Li be added as an inventor in the instant application. The executed documents will be submitted as soon as possible.

The granting of such petition will obviate these rejections as the present application claims priority on the Lishko patent cited against the claims. Granting of this petition and withdrawal of this rejection therefore is respectfully requested.

### CONCLUSION

A new Oath, a petition to correct inventorship, a statement from the inventor to be added, a consent of assignee, and a terminal disclaimer have been submitted. Claim 10 has been amended to overcome the indefiniteness rejection. It is respectfully submitted that all claims contain allowable subject matter and such indication is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 312762001800. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: July 30, 2001

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims:**

10. (Amended) The method of claim 9 wherein the plasmid is [pEDFP-p21] pEGFP-p21.